

Notice of Allowability

Application No.

10/723,879

Examiner

John K. Ford

Applicant(s)

KOLB, JOHN A.

Art Unit

3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to response of 8/14/06
2. ☒ The allowed claim(s) is/are 26-33.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

This application is in condition for allowance except for the presence of claims 35-42 directed to a species non-elected without traverse. Accordingly, claims 35-42 have been cancelled.

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance: The declaration under Rule 132 and the accompanying Remarks do not support the superiority of the claim 26 CAC/radiator over the EP '288 CAC/radiator from a heat transfer viewpoint. In every instance where these two devices were constructed **with the same CAC cores**, the EP '288 device outperformed the claim 26 device heat transfer-wise. That is to say, in each of these cases, the EP'288 device had a higher RAD AMB CAP and a lower IMTD than the corresponding claim 26 design (**using the same CAC cores**). This performance superiority of the EP '288 device is expected because the claim 26 design locates the rear CAC core behind the hottest part of the radiator, whereas the EP '288 design locates the rear CAC core behind the coolest part of the radiator. Only by using different CAC cores in the claim 26 design from those in

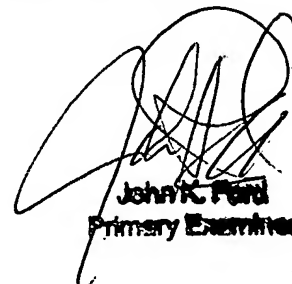
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the EP '288 design was applicant able obtain marginally better heat transfer performance, but the examiner maintains such a test unduly prejudices the performance of the EP '288 design.

Nonetheless, the examiner finds persuasive applicant's remarks regarding the advantageous disposition of external connections at their more traditional locations at the bottom and top of the unit, the comments about the shortness of the connecting conduit connecting the two CAC cores together (in contrast to both the EP'288 and applicant's PRIOR ART Figure 1) and, the examiner would add, the ability for the charge air condensate to continuously drain in the direction of air flow toward the bottom header in the claim 26 design (as opposed to both the EP'288 and applicant's PRIOR ART Figure 1) for eventual separation and discharge and claims 26-33 are allowed on the basis these latter more persuasive arguments, not the alleged superiority of the heat transfer.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication should be directed to John K. Ford at telephone number 571-272-4911.



John K. Ford
Primary Examiner